IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

CRP.No. 2412 of 1999(C)

I.A.176/97 IN O.S.338/91 IN THE FILE OF THE MUNSIFF, PUNALUR

REVN. PETITIONER/DEFENDANT/COUNTER PETITOINER

GEORGE LAWRENCE,
PULIMOOTTIL VEEDU,
CHALACODE WARD, PUNALUR MUNICIPALITY,
PUNALUR

BY ADV. SRI.B.GOPAKUMAR
SMT.CHINCY GOPAKUMAR

RESPONDENTS/PLAINTIFFS/PETITIONERS

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1. CHARLET LAWRENCE,
T.C. XV/853, VAZHUTHACAUD, TVM.

2. AGUGUSTINE JOMEX,
JULY VILLA, KARIARA, VILAKKUDY VILLAGE.

3. CARLOSE GOMEZ (DIED)
NIRMALA BHAVAN, KARIARA, VILAKKUDY VILLAGE.

ADDL.R4 TO R6

4. C.JACOB, S/O CARLOSE GOMEZ, AGED 49.
NIRMALA BHAVAN, MARIARA, VILAKKUDY VILLAGE,
VIA PUNALUR

5. AGNES JOSEPH, D/O CARLOSE GOMEZ, AGED 45,
ANUP VILLA, NARKKAL, KARAVALOOR (VIA)
PUNALUR.

6. NIRMALA MATHEW, D/O CARLOSE GOMEZ,
AGED 45, PUNNASSERIL, KOTTIYAM (VIA), KOLLAM.
(Impleaded as additional respondents 4 to 6 as per order dated 20.5.05 in I.A.2055/03 being the legal representatives of deceased R3.)

BY ADV. SRI.P.G.PARAMESWARA PANICKER
SRI.P.GOPAL

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J

C.R.P.2412/1999

Dated this the 10th day of December, 2007

ORDER

This is a revision filed in the year 1999 against an interlocutory order in an application filed in 1997 in a suit of 1991. By the order impugned, the Court below allowed the application filed by the plaintiffs to send the thumb impression and signature of the defendant taken in court for comparison with Exts.X1 and X2 series. The application was originally allowed on 23.9.1998, after hearing both sides. That order was set aside in C.R.P.2009 of 1998 and the Court below was directed to consider the matter afresh. Accordingly, the Court below passed the order impugned on 15th October, 1999, by which the application was allowed.

2. The case put forward by the revision petitioner is that by the order impugned, the Court below has in fact permitted a roving enquiry to be made. It is stated that during the examination of certain witnesses, the genuineness or otherwise of the documents came up for

consideration and for that purpose, the present I.A was filed by the plaintiffs.

3. I am not inclined to accept the contentions raised by the revision petitioner. It is necessary to dispose of the suit filed in the year 1991. The application was originally allowed in 1998. Had the comparison of thumb impression and signature been made at that time, the suit would have been disposed of by this time.

4. Even otherwise, the Civil Revision Petition is not maintainable under Section 115 of the Code of Civil Procedure, as amended by the Amendment Act, 1999. As held by the Supreme Court, a revision cannot be entertained and the order impugned set aside, varied or reversed unless where the order passed by the Court below, if it had been in favour of the revision petitioners would have finally disposed of the suit or other proceedings. The order impugned in this revision is an order by which comparison of signature and thumb

impression of the revision petitioner is sought to be made with admitted signature and thumb impression. Even if the application filed by the respondents is dismissed, that will not put an end to the litigation. Therefore, this revision is not maintainable and the same is accordingly dismissed. No order as to costs.

K.T.SANKARAN
Judge

mrcs